

REPORT OF THE AUDITOR-GENERAL ON CHERANG'ANY MARAKWET WATER AND SANITATION COMPANY LIMITED FOR THE YEAR ENDED 30 JUNE, 2023

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in use of public resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Cherang'any Marakwet Water and Sanitation Company Limited set out on pages 1 to 53, which comprise of the statement of financial position as at 30 June, 2023, and the statement of profit or loss and other comprehensive income, statement of changes in equity, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Cherang'any Marakwet Water and Sanitation Company Limited as at 30 June, 2023, and of its financial performance and its cash flows for the year then ended, in accordance with the International Financial Reporting Standards (IFRS) and comply with the Public Finance Management Act, 2012, the Companies Act, 2015, and the Water Act, 2016

Basis for Qualified Opinion

1. Inaccurate and Unsupported Operating Revenue Amount

The statement of profit or loss and other comprehensive income and Note 1 to the financial statements reflects operating revenue amount totalling Kshs.6,729,560 in respect of water sales which is based on a uniform rate of Kshs.300 per registered homestead as Management has not installed a master and customer meters. The volume of water produced and sold could not be determined. In addition, the statement of comparison of budget and actual amounts reflects corresponding operating revenue totalling Kshs.7,403,284 resulting to unexplained variance of Kshs.673,724.

In the circumstances, the accuracy of operating revenue amount totalling Kshs.6,729,560 could not be confirmed.

2. Unsupported and Irregular Expenditure on Staff Costs

The statement of profit or loss and other comprehensive income and Note 3 to the financial statements reflects expenditure on staff costs totalling Ksh.3,357,580 which include payments to casual workers totalling Kshs.2,510,900. Review of the payroll revealed that wages totalling to Kshs.2,440,760, paid to the casual employees were not supported by the muster roll. In addition, sixteen (16) casual employees who are still in service had been engaged for a period of more than three (3) months contrary to the provisions of Section 37(1)(a)(b) and (3) of the Employment Act, 2007 which provides for conversion of the casual employment to regular employment terms for employees who have worked in an entity continuously for more than three months.

In the circumstances, the accuracy, regularity and completeness of expenditure on staff costs totalling to Kshs.3,357,580 could not be confirmed.

3. Unsupported Property, Plant and Equipment Balance

The statement of financial position and Note 9 to the financial statements reflects property plant and equipment balance of Kshs.137,250. Included in the balance are various assets including land, motor vehicles, motor bikes and water tanks inherited from Lake Victoria North Water Works Development Agency (LVNWWDA) and County Government of Elgeyo Marakwet of unknown value which have not been incorporated in the financial statements. In addition, review of the assets register revealed that the assets inherited from LVNWWDA and those that were acquired during the year were not recorded in the register contrary to Section 149(2) (o) of Public Finance Management Act, 2012 that

requires an accounting officer to maintain an asset register that is current, accurate while the register lacked details on assets.

In the circumstances, the accuracy, valuation and completeness of the property, plant and equipment balance of Kshs.137,250 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Cherang'any Marakwet Water and Sanitation Company Limited Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on a comparable basis of Kshs.6,000,000 and Kshs.7,403,284 respectively resulting to an over realization of Kshs.1,403,284 or 123% of the budget. Similarly, Management spent Kshs.5,774,255 against an approved budget of Kshs.11,444,400 resulting to an under-expenditure of Kshs.5,768,484 or 50% of the budget.

The under-expenditure affected the planned activities and may have impacted negatively on performance of the Company service delivery to the public.

My opinion is not modified in respect of this matter.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under Report on Financial Statements, Report on Lawfulness and Effectiveness in the use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the issues remain unresolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness

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and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Lack of Records for Non-Revenue Water

The statement of profit or loss and other comprehensive income reflects operating revenue of Kshs.7,403,284 in respect of is for water sales as disclosed in Note 1 to the financial statements. However, it was noted that the company did not maintain records of the volume of water produced as there was no master meter installed in the intake point. Although the Company charges Kshs.300 per registered home every month for water consumed, the Management did not provide meters to the clients and as such it was not possible to establish acceptable non-revenue water levels.

In the circumstance, lack of records on volume of water produced may lead to high levels of unaccounted for water, which may have a negative impact on the Company's profitability and could affect sustainability of its operations.

2. Failure to Observe Ethnic Balance on Staff Composition

The statement of profit or Loss and other comprehensive income and Note 3 to the financial statements reflects expenditure on staff costs totalling Kshs.3,357,480. Review of payroll records revealed that, as at 30 June, 2023, Cherang'any Marakwet Water and Sanitation Company Limited had a total of sixteen (16) casual employees. However, all of them hailed from the dominant ethnic community contrary to section 65(1)(e) of the County Governments Act, 2012 which states that in selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

In the circumstances, the Company was in breach of the law.

3. Unbalanced Budget

The statement of comparison of budget and actual amounts reflects final revenue and expenses budget totalling Kshs.6,000,000 and Kshs.11,444,400 respectively resulting to a budget deficit of Kshs.5,444,400 contrary to Regulation 31(c) of the Public Finance Management (County Governments) Regulations, 2015 on budget guidelines which provides that at all times during budget formulation and approval, budget revenue and expenditure appropriations shall be balanced.

In the circumstances, Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that

govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Lack of Internal Audit Function and an Audit Committee of the Board

As previously reported, the Company has not established an internal audit function and an Audit Committee of the Board. This is contrary to Section 155 of the Public Finance Management Act, 2012 which provides for the establishment of the internal audit function and an Audit Committee of the Board. The Company therefore did not benefit from the assurance and advisory services from the internal audit function as well as oversight from the Audit Committee.

In the circumstances, the effectiveness of internal controls and governance could not be confirmed.

2. Failure to Establish Human Resource Policy and Procedure Manual

The statement of profit or loss and other comprehensive income and Note 3 to the financial statements reflects expenditure in respect of staff costs totalling to Kshs.3,357,480. The expenditure is in respect of casual wages and airtime allowance of the seconded staff. However, the entity does not have an approved human resource policy and procedure manual.

In the circumstances, Management may not be able to plan for, recruit, remunerate and retain competent staff necessary to deliver on the Company's objectives.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

As required by Kenya Companies Act, 2015, I report based on my audit, that:

- i. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit;

- ii. In my opinion, adequate accounting records have been kept by the Company, so far as appears from the examination of those records; and,
- iii. The Company's financial statements are in agreement with the accounting records and returns.

Responsibilities of Management and the Board of Directors

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards (IFRS) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing Company's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention to liquidate the Company or cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the Company's financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Board of Directors is responsible for overseeing the Company's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal controls components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Company to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Company to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and where applicable, related safeguards.



FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

15 May, 2024